

Basic Training in Nondiscrimination

ADA & Title VI Program Level 1

Meet your INDOT compliance staff

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TITLE VI BASICS:

- ROLE OF COORDINATORS
- TITLE VI PROGRAM BASICS
 - ADA PROGRAM BASICS



YOUR ROLE AS COORDINATOR

What is the Role of a “Coordinator”

Coordinating & Facilitating compliance with the laws and requirements by:

- 1. Ensuring Program & Facility Access “for ALL”**
- 2. Implementing policy & procedures**
- 3. Reviewing Programs, Plan & Activities**
- 4. Training**
- 5. Managing staff / liaisons, often indirectly!**
- 6. Working with internal & external leadership**



Skill Set for a Coordinator:

- **Ability to be “PC” – excellent communication**
- **Full understanding of the scope of your agency’s operations & responsibilities**
- **Capable of analyzing complex issues and recognizing deficiencies**
- **Able to understand legal language**
- **Motivate others to make and sustain changes**
- **Good at follow through, not just an initiator**
- **Respected by others – able to “manage” people who don’t report to you.**
- **Comfortable training and educating others in small and large settings.**
- **Willing to engage conflict and find solutions**



The ADA / T6 Coordinator is:

- **THE point person (DOJ, State & Fed., Local, Community, internally)**
- **Knowledgeable and always a student of the ADA & / or Nondiscrimination Laws**
- **Consistent communicator of accurate information**
- **Persistent implementer and evaluator**
- **Problem solver – not afraid to make decisions!**
- **Detailed documenter**
- **Credible**



The ADA / T6 Coordinator is a learner:

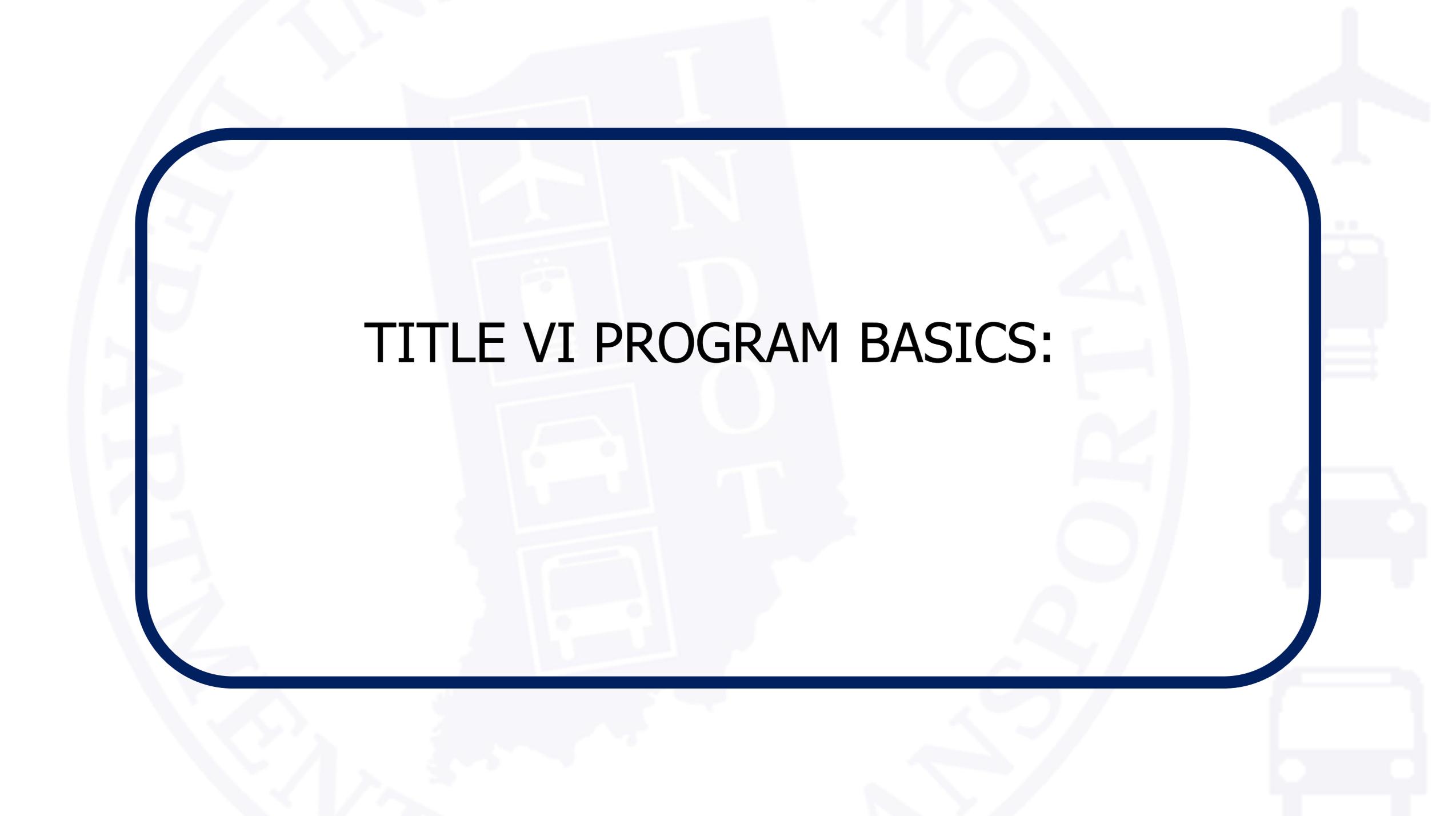
- **Starting with Title II of the ADA / Section 504 / T6**
 - Policy and law, then standards
- **The “other titles” / reg.s and an understanding of an accessible community, equitable community**
- **Listens to, engages & learns from People with Disabilities, Minorities if T6**
- **Attends local & national conferences, views webinars, engages resources**
- **Considers certification**



The Coordinator is a leader:

- **You will be the point of contact**
- **You must be able to neutrally evaluate problems and complaints**
- **You must be able to motivate others to implements change and to CARE**
- **The ADA coordinator: SEES it, OWNS it, SOLVES it and SUSTAINS it.**





TITLE VI PROGRAM BASICS:

Title VI of the Civil Rights Act of 1964

“No person in the United States shall on the grounds of **race, color, or national** origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

(42 U.S.C. 2000d)



Nondiscrimination Requirements NOW include:

- ✓ **Race**
- ✓ **Color**
- ✓ **National Origin**
- ✓ Disability
- ✓ Sex
- ✓ Sexual Orientation
- ✓ Gender Identity
- ✓ Age
- ✓ Low Income Status
- ✓ Limited English Proficiency
- ✓ Status as a Veteran (in Indiana)



Because the Purpose of Title VI is:

- To eliminate discrimination in federally funded programs and activities.
- To ensure equitable distribution of public funds for public benefit.

Title VI is for everyone !



As President John F. Kennedy said in 1963:

“ Simple justice

requires that public funds,

to which all taxpayers of all races [colors, and national origins]
contribute,

not be spent in any fashion which encourages, entrenches,
subsidizes or results in ... discrimination.”



Civil Rights Restoration Act of 1987

- Clarified and restored the intent of Title VI.
- The scope of Title VI includes ALL programs and activities of Federal-aid recipients and contractors regardless if the programs are federally funded or not.



Understand your Title VI Responsibilities:

FIRST STEPS:

- Designate a Title VI Coordinator
- Develop, Post & Implement a Title VI policy
- Implement a Complaint Policy
- Adhere to the signed Assurances of Nondiscrimination & include the appropriate appendices in your agreements where applicable
- Identify your team



Understand your Title VI Responsibilities:

ONGOING:

- Evaluate the following for discrimination:
 - Programs / facilities
 - Activities
- Ensure Programmatic Implementation throughout your agency
- Disseminate Title VI information to beneficiaries & stakeholders:
Include Title VI in your Public Involvement Plan
- Monitor Subrecipients for Compliance – if applicable
- Develop, Post & Implement your annual program documents:
 - Title VI Implementation Plan, and
 - Annual Goals & Accomplishments Report



Programmatic Implementation:

- Identify areas with potential for discrimination
- Determine what data collection and analysis is necessary to look for discriminatory practices & impacts
- Select subject matter experts who can obtain, gather & assist in analyzing this data
- Train these individuals and any other program area representatives who will interact with the data / information being analyzed in Title VI requirements
- Work as a team to set goals and develop a plan for Title VI analysis in that program area

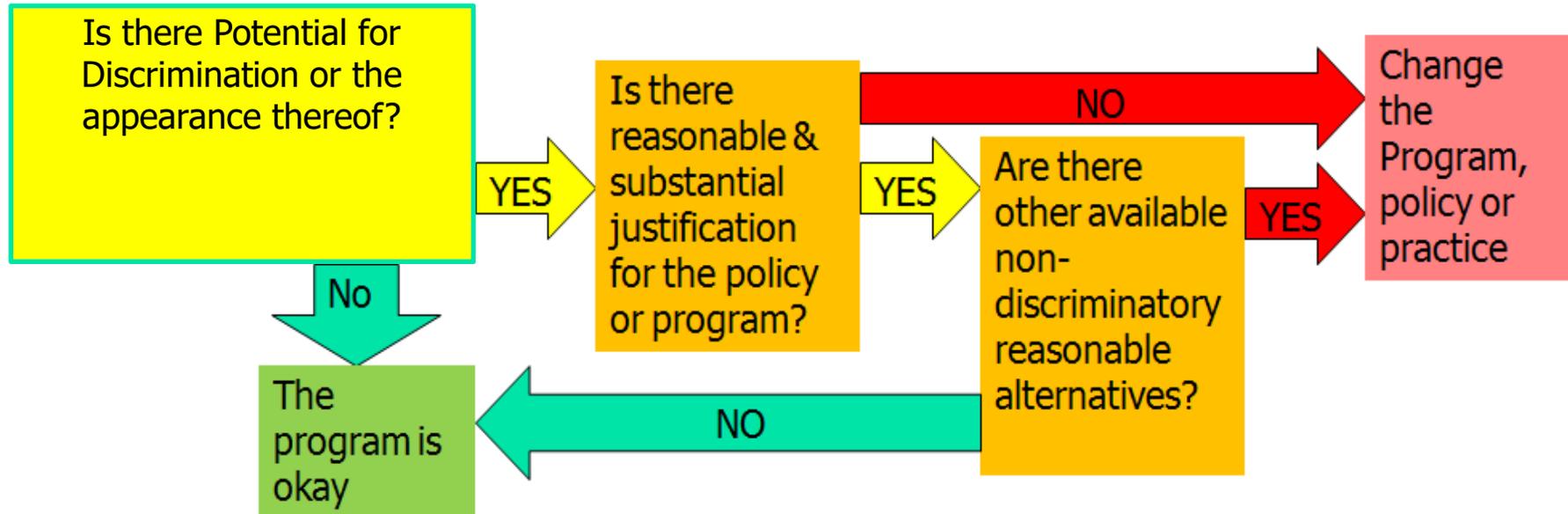


Program Evaluation:

- Develop and implement procedures for the collection of statistical data (race, color, national origin) of participants in and beneficiaries of your agency's programs.
- Work with your liaisons, Program Area Representatives, or other Title VI team members to analyze data and information collected and
- Make adjustments to programs as necessary to reduce discriminatory impacts,
- Document your efforts.



Analyzing your programs for discrimination:



Limited English Proficiency (LEP)

Executive Order 13166 requires federal-aid recipients to take reasonable steps to ensure meaningful access to their services to **Limited English Proficiency persons**.

4 factor analysis:

- > number LEP persons encountered, > need for assistance
- Frequency of contact with LEP persons
- Importance of program or service provided (warning signs)
- Available resources (reasonable test)



What are Language Services?

- Oral interpretation
- Bilingual staff
- Telephone interpreters
- Written language services
- Use of community volunteers
- Language cards
- Use of universal signs, symbols and pictures



Environmental Justice



Executive Order 12898
Requires all federal
agencies to make
Environmental Justice
("EJ") part of their
mission by identifying
and addressing the
effects of all programs,
policies, and activities
on **minority and low-
income populations.**

Environmental Justice

- **EJ applies to all transportation decisions, including:**
 - Policy making
 - System planning
 - MPO and statewide planning
 - Preliminary review under NEPA
 - Preliminary design
 - Final design engineering
 - Right-of-way
 - Construction
 - Operations and maintenance



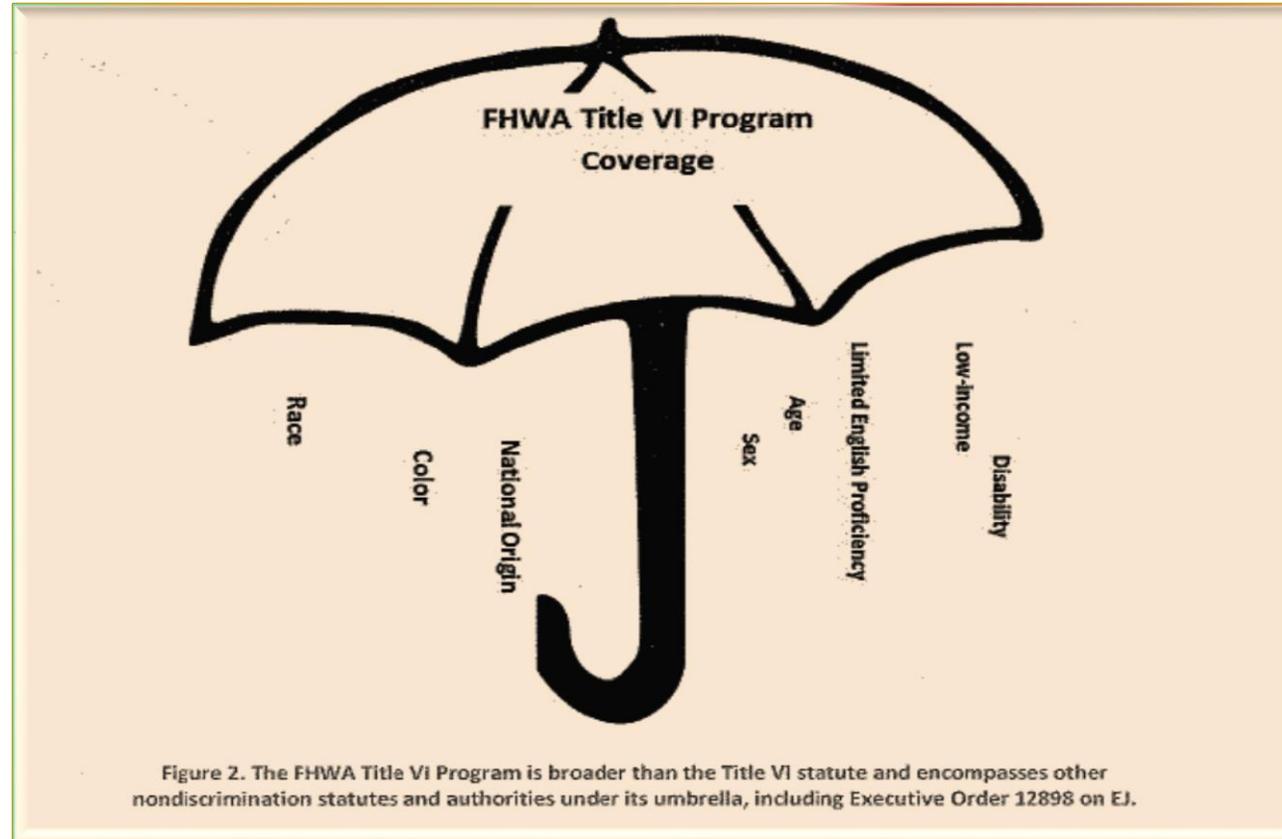
EJ Requirements

- Make a meaningful effort to involve minorities and low income populations in the decision making process.
- Evaluate the nature, extent and incidence of probable, favorable and adverse human health or environmental impacts on protected populations.
- Incorporate EJ considerations throughout the project development process.



A Visual:

Think of Title VI as a Large Umbrella broadly covering ALL programs:



Title VI planning in a Nutshell:

Let's reflect on what we've covered:

Identify

- People who will work with you
- Programs that have implications
- Data that needs collected & analyzed
- Accomplishments

Develop

- Policies, procedures & plans
- Objectives for your Title VI plan
- Specific Annual Goals

Gather & Analyze

- Data
- information

Report:

- Outcomes
- Evaluations
- changes

Inform & Involve

- Public awareness
- Website & publication
- Training staff, subrecipients

Document

- EVERYTHING

Keep INDOT informed!!!



Consequences of Noncompliance

- **Withholding of payments on the contract until the sub recipient complies, and**
- **Cancellation, termination or suspension of the contract in whole or in part, or**
- **Other authorized action including provisions under state and local law (e.g. referral to INDOT Prequalification Committee or the U.S. Department of Justice)**



Where to Begin?

Start at the very beginning...

1st Title VI Implementation Plan can be a “*plan for the plan*”.

- **Who?**
 - **Title VI Coordinator**
 - **Others?**
- **What?**
 - **Programs?**
 - **Policies?**
 - **Data?**
 - **Public Involvement?**
- **When?**
 - **In one year, what can you REASONABLY do?**
 - **Define goals & action steps – put these in your Initial Goals & Accomplishments Report**



Considerations:

Start at the very beginning...

**1st Title VI Implementation Plan can be
a “*plan for the plan*” ...**

BUT ...

- 1. Call it your “Title VI Implementation Plan”**
- 2. Include all elements, using placeholders as necessary**
- 3. Where “placeholders” are used, cross reference your goals where you have a specific plan & timeframe established.**



YEAR ONE

- 1. Designate your Title VI Coordinator BY NAME, even if it is just on an interim or initial basis**
- 2. Develop & implement your nondiscrimination policy.**
- 3. Attend training**
- 4. Develop and implement your complaint policy & procedures**

YEAR TWO

1. **Identify at least one program you can evaluate for risks:**
 - **Public involvement / meetings practices?**
 - **Maintenance?**
2. **Train your employees**
 - **INDOT has a template power point!**
 - **Keep records**
3. **Begin collecting LEP data**

Demonstrating Good Faith Efforts:

Where deficiencies remain, you must prepare an ACTION PLAN addressing each deficiency:

- 1. Acknowledge the deficiency exists**
- 2. Agree to address the deficiency**
- 3. Establish a plan (when, how, who, what)**
- 4. Define the annual goal for the deficiency:**

What will you do this year to address that deficiency?



So – To meet expectations you must:

Be fully in compliance by :

- **meeting all the requirements and**
- **providing your Title VI Implementation Plan and Annual Goals & Accomplishments Report to INDOT when you update it.**

OR

- **Be able to demonstrate reasonable good faith efforts toward compliance and**
- **submit an action plan to INDOT, providing regular updates as you achieve program goals and remove deficiencies.**



The Title VI Program Checklist:

Your records can demonstrate that:

- **You have a Title VI Coordinator who has received training from INDOT within the past 2-3 years.**
- **You have a Title VI Implementation Plan that includes:**
 - A Complaint Policy, Form & Log,
 - A Nondiscrimination Policy,
 - Organizational charts that ID your program areas & relevant staff,
 - Signed Assurances of Nondiscrimination,
 - Public Involvement opportunities,
 - Subrecipient monitoring if applicable, or a statement of N/A
 - LEP & EJ considerations, and
 - discusses how you evaluate your programs and train your staff
- **You have an annual goals and accomplishments report discussing outcomes and improvements with actual data.**



Develop a Nondiscrimination Policy

Requirements:

- Develop a Title VI Nondiscrimination Policy Statement assuring nondiscrimination in the agency's programs and activities.
- Post This policy
- Implement this policy

INDOT's Policy: <http://www.in.gov/indot/3584.htm>



Develop a Complaint Policy

Requirements:

- Develop a **grievance procedure**.
- Develop a **complaint form** that clearly identifies the Title VI Coordinator by name & provides contact information.
- **Notify INDOT** of any complaints received within ten (10) days.
- Maintain a **log** of all complaints received



Assurances of Nondiscrimination:

Requirements:

- You sign the Assurances of Nondiscrimination when you receive federal funds either directly or as a subrecipient
- They create a contractual obligation for Title VI Compliance
- They contain Appendices that must be included in certain documents (bid solicitations, deeds, leases, etc.)
- They create Do & Don't obligations:
 - Don't discriminate
 - Do monitor subrecipients
 - Do have a complaint policy
 - Do have a nondiscrimination policy
 - Do data analysis



Disseminate Title VI Information:

Requirements:

- Provide an opportunity for public involvement and access to the transportation decision making process in every stage of the planning and development of transportation projects to everyone:
 - Including minority or low-income communities and
 - Populations who are not proficient in English.
 - Consider disabilities!
- Develop an agency Public Participation Plan with maps of the identified EJ and LEP populations (based upon the most recent Census data) that details how public participation is solicited, captured, and utilized.



Monitor Subrecipients for Compliance:

Requirements:

- Develop and implement pre and post-award subrecipient monitoring policies to ensure those further subrecipients who receive federal funds from you are compliant and remain compliant with Title VI.
- Ensure post-award compliance reviews are risk-based
- Ensure pre-award compliance monitoring strategies (i.e. CERTIFICATIONS) exist as this is the best opportunity to ensure discrimination does not occur.



Putting it all together:

Title VI Implementation Plans

- Policy document
- Who does what & how
- Every person, role, business practice, policy, form & workflow should be identified here

Annual Goals & Accomplishments Reports

- Includes the analysis of facts & data collected & analyzed the prior program year
- Who received training, what data was gathered & how, what did it show. Who reviewed it, what changes were made?
- Defines goals for the next year
- Include task management for better outcomes!



Resources:

INDOT's Subrecipient Toolkit:

- Overview of rules & regulations
- Description of our subrecipient monitoring procedures
- Program Requirements & recommendations
- Checklists
- Links
- Templates
- Samples
- Examples

<http://www.in.gov/indot/3591.htm>

